
(2015) 06 MP CK 0026
In the Madhya Pradesh High Court
Case No : Writ Petition No. 1977 of 2014

Anupama Gupta

APPELLANT

Vs

State of M.P. and Others

RESPONDENT

Date of Decision : 18-06-2015

Acts Referred:

Constitution of India, 1950 — Article 14, 16, 226

Citation : (2015) 06 MP CK 0026

Hon'ble Judges : Rohit Arya, J

Bench : Single Bench

Advocate : D.P. Singh, for the Appellant; S.K. Jain, Government Advocate, Advocates for the Respondent

Final Decision : Disposed off

Judgement

Rohit Arya, J.

1. Heard.

2. This petition under Article 226 of the Constitution of India is directed against the order dated 12/12/2013 (Annexure P/1); whereby, benefit of senior grade extended to the petitioner w.e.f. 13/10/1998 has been re- fixed prejudices and detrimental to her rights and interest. It has been done without any show cause notice and without affording any opportunity of hearing in grave violation of Article 14 and 16 of the Constitution of India. Besides, it is contended that impugned re-fixation is contrary to the principles of natural justice and fair play. Petitioner is also agreed by order dated 12/12/2013 (Annexure P/1); whereby, selection grade granted to the petitioner has been re-fixed w.e.f. 8/1/2013. Hence, the petitioner has sought quashment of orders Annexure P/1.

3. During course of arguments, learned counsel for the petitioner submitted that controversy involved in this petition is squarely covered by the order of Coordinate Bench dated 27/4/2015 passed in W.P. No. 3662/2014, therefore, this petition may be disposed of in terms of the said legal position.

4. Having perused the aforesaid order, it appears that Coordinate Bench has followed the judgment rendered by Coordinate Bench at Principal Seat in the matter of Kailash Tyagi Vs. State of Madhya Pradesh in W.P. No. 8922/2013 and disposed of the petition in terms of the aforesaid order.

4. The legal contentions advanced by counsel for petitioner are not rebutted by counsel for State.

5. In Dr. Kailash Tyagi (supra), this Court held as under:-

"11. By the impugned order the entitlement of the petitioner for grant of selection grade pay-scale has been modified from 27.7.1998 to 4.3.2000, admittedly, without compliance of principles of natural justice. The aforesaid order has been modified unilaterally with regard to date of entitlement of the petitioners which would result in adverse consequences i.e. recovery of the amount from the petitioner. Thus, the benefit which was accorded to the petitioners is sought to be taken away without following the principles of natural justice. It is possible for the petitioners to contend that the order dated 29.1.2008 is prospective in nature and does not apply to the case of the petitioner as the benefit has already been granted to him and the said order does not provide for reopening of the cases where the benefit of Senior Grade/ Selection Grade/ Grade Pay has already been extended. In other words, the petitioners have not admitted that any excess amount is paid to them. The petitioners assert their entitlement to the amount in question.

12. The genesis of action contemplated against the petitioner i.e. issuance of the impugned order by which the date of entitlement of the petitioner has been unilaterally modified appears to be 29.1.2008. The said order was issued to clarify clause 8A contained in the order dated 11.10.1999. Undoubtedly the prejudice would be caused to the petitioners if the amount is recovered from them without affording an opportunity of hearing to them. The petitioners may have plausible defence to put forth before the authority. However, the same is required to be considered and dealt with by the competent authority.

13. In the considered opinion of this Court, the action of the respondents in passing the impugned orders are in breach of principles of natural justice therefore, the same cannot be sustained in the eye of law. Accordingly, the same are quashed. However, the respondents would be at liberty to issue notice to the petitioners indicating the grounds on which the date of entitlement for grant of Selection Grade/ Selection Grade/ Grade Pay are sought to be modified and to pass a fresh order containing reasons in accordance with law after affording an opportunity of submitting reply to the petitioners. It is made clear that this Court has not expressed any opinion on the merits of the claim made by the petitioners and the competent authority would be at liberty to examine the case of the individual petitioner on its own merit."

6. In view of aforesaid stand of the parties, this petition is disposed of in terms of the order passed in Dr. Kailash Tyagi (supra). The directions passed in the said

case shall apply to the present matter with full force. In other words, the said judgment will mutatis mutandis apply to this case also.

7. Petition is disposed of.